THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.8662 of 2007

24-04-2007

Between:-

Chennupati Seethamma

Petitioner

And

State Bank of India, Bapatla town,
Guntur district rep., by its
Chief Manager & Authorized Officer and five others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 8662 of 2007

Oral order:

The writ petition is misconceived.

Admittedly, the first respondent advanced a loan to the second respondent and the second respondent defaulted in repayments of the principal and interest and thus became a defaulter. The first respondent after having treated the loan account as a non-performing asset, initiated proceedings under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002 (for short 'the Act'). The process under Sections 13 (2) and 13 (4) of the Act having been completed, the secured assets were taken possession of after due process under the

provisions of the Act. Among the secured assets now notified for sale, item No.1 is land in an extent of Ac.0.14 ½ cents of urban site with an R.C.C. building bearing D.No. 15-3-48, Assessment No. 9627 in Market Street, Bapatla which belongs to the petitioner and had been mortgaged to the first respondent towards collateral security for the loan obtained by the second respondent. The petitioner guaranteed the repayment of the loan liability of the second respondent. As the expression 'borrower' is defined to include the 'guarantor' under the Act and on settled principle and authority, the liability of the guarantor is independent of the liability of the principal debtor. The first respondent had the liberty in law to proceed only against the assets of the petitioner without proceeding against the secured assets of respondent Nos. 2 to 6. However after having taken possession of all the secured assets including of the petitioner, by the public auction notice dated 24-03-2007, published in the English daily press on

25-03-2007, the first respondent has notified all the secured assets for sale. The property mortgaged by the petitioner in favour of the first respondent is itemized first in the schedule of properties notified for sale. This is the singular grievance in the writ petition, a grievance which has no legal basis.

There are no merits. The writ petition is accordingly dismissed. No costs.

GODA RAGHURAM, J

Dated:24-04-2007
Pvks/*

Nb:- Furnish c.c. tomorrow..
B/o pvks/*